

REMARKS

At the time of the Ninth Office Action dated July 9, 2009, claims 29-51 were pending and rejected in this application. Applicants have cancelled claims 29-51 to remove these claims from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the prior art cited by the Examiner, as the present claim cancellations are only for facilitating expeditious prosecution of the present application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Claim 52-71 have been added, and Applicants submit that the present Amendment does not generate any new matter issue.

CLAIMS 29-51 ARE REJECTED UNDER 35 U.S.C. § 103 FOR OBVIOUSNESS BASED UPON ANDERSON ET AL., , U.S. PATENT NO. 6,078,892 (HEREINAFTER ANDERSON), IN VIEW OF GRIGGS, "GIVE US LEADS! GIVE US LEADS!"

Claims 29-51 have been cancelled, and thus, the Examiner's rejection as to these claims is moot. However, Applicants will address the Examiner's analysis as it applies to the newly-presented claims 52-71.

Independent claims 52 and 62 each recite "the plurality of rules are computer data structures and include: global rules applicable to all users, and a user specific rule applicable to a specific user." On page 6 of the Decision on Appeal, the Board presented the following claim constructions:

1 We construe global rules to be those such as is disclosed in Anderson as prospect
2 demographics rules which use independent explanatory variables and thus are global in
3 nature. We further construe specific rules as the disclosed dependent, business variables
4 in Anderson which use historical data collected through past marketing campaigns.
5 (emphasis added)
6

7 In the Decision on Request for Rehearing, in response to Applicants' arguments that the
8 user specific rules are specific to a user, the Board asserted:

9 We disagree with Appellants because just by naming a term user specific does not
10 necessarily confer on the term that the rules are specific to a user as Appellants now
11 argue.
12

13 Notwithstanding that Applicants disagree with the Board's claim construction of "user
14 specific rules," Applicants note that the newly-presented claims explicitly recite that "[the] user
15 specific rule [is] applicable to a specific user." Thus, the Board's claim construction no longer
16 applies.
17

18 As previously argued by Applicants, Anderson fails to teach a plurality of rules that
19 include both global rules (applicable to all users) and a user specific rule (applicable to a specific
20 user). In the Decision on Appeal, the Board did not find that find that Anderson teaches user
21 specific rules. Instead, the Board found that Anderson teaches specific rules. Thus, Applicants
22 maintain that Anderson fails to teach all of the limitations recited in the claims. On this basis, a
23 rejection of the present claims under 35 U.S.C. § 103 for obviousness based upon Anderson and
24 Griggs would not be proper.

Although Applicants believe that all claims are in condition for allowance, the Examiner is directed to the following statement found in M.P.E.P. § 706(II):

When an application discloses patentable subject matter and it is apparent from the claims and the applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and when possible should offer a definite suggestion for correction. (emphasis added)

Additionally Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. Accordingly, and in view of the foregoing remarks, Applicants hereby respectfully request reconsideration and prompt allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 122158, and please credit any excess fees to such deposit account.

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Respectfully submitted,

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